MAKING A TARIFF LAW

The tariff has been an issue in American politics almost since the beginnings of the nation. About this issue most of the great political battles of the United States have been fought. But, until this year, the line of cleavage has always been between two widely differentiated economic principles—the principle of protection as opposed to free trade or tariff for revenue only. While there is some sort of a contest between these two fundamental ideas even today, it is mainly between economists. Public men seem to have accepted it as the verdict of the American people that the protective tariff shall prevail as the basic idea of commercial policy in America. It is about the methods of putting the protective tariff idea into effect that the great tariff issue of today is centered. And the contest is not between two political parties, but between two factions of the same political party; between two groups of men in the Republican party, the party of the protective tariff. One group contends that the other, which is the controlling faction in both houses of Congress, has not kept faith with the American people and with the Republican party in writing the Payne-Aldrich tariff law. This group of men, led by Senators La Follette, Cummins, Bristow, Beveridge, and Clapp in the Senate and by Representatives Lenroot, Norris, Poindexter, Murdock, and others in the lower house of Congress is denouncing the Payne-Aldrich tariff as a betrayal of party trust and a perversion of the protective tariff principle. The tariff law, they say, is full of fraud and was written to aid special interests who were close to the framers of the law.

The Republican platforms adopted in several western states this year have denounced the last tariff law and have called for another revision, based upon accurate knowledge of the difference in the cost of production in America and abroad, which the last Republican national platform declared to be the true basis of the protective tariff theory. The demand has arisen for

a tariff commission to obtain this accurate information. President Taft has declared that the inequalities of the present law must be remedied by a careful revision, schedule by schedule, and has introduced the "tariff board" created by the last tariff law to gather information upon which to base this revision. Everywhere there is discussion of the tariff, and, instead of being settled by the national election of 1908 and the new law that followed that election, the tariff is one of the most vital issues in American politics today. The question is: having once decided that the principle of protection shall guide in the writing of the national tariff laws, how shall we go about it to write a protective tariff? The issue raised by the "insurgents" is one of political honesty, an issue almost as fundamental as the question of protection itself.

It is the purpose of this paper to inquire into the question thus raised and to demonstrate that tariff-making methods in use in America today are in themselves essentially vicious because they create innumerable opportunities for fraud and leave the door open for trickery which even the most vigilant member of Congress cannot possibly detect.

The late Senator Dolliver created considerable amusement one day in the Senate chamber when he said: "The past year witnessed two events of unusual interest—the discovery of the North Pole by Doctor Cook, and the revision of the tariff downward by the senator from Rhode Island—each in its way a unique hoax, and both promptly presented to the favorable notice of the public by the highest official congratulations." No man had a better opportunity than had Senator Dolliver to examine the "proofs" submitted by the senator from Rhode Island (Senator Aldrich), and it is with a very small portion of these "proofs" that this paper will deal: the schedule that deals with cotton goods. An examination of the tariff on cotton goods and an account of how this tariff was written into the law will illustrate, better than anything else that can be discussed, what is the matter with our methods of tariff-making and the need for a fundamental change in them before we can hope for better results. It will show that so long as the present methods obtain,

the result can lead nowhere except to dissatisfaction and to continual agitation, because they are essentially vicious and in their very nature can produce nothing but a hodge-podge based upon *ex parte* information or no information at all.

The most striking thing about Washington is the horde of lobbyists that flock thither when Congress convenes. This is especially noticeable whenever the tariff is under consideration. Every industry that is affected by the tariff—and that means nearly every industry in the United States—is represented in Washington. The various industries want to make sure that their interests are not injured in the writing of the tariff laws. This was the situation when it became evident that the Sixty-first Congress was to revise the tariff. Both national platforms had declared for a revision of the tariff and President Taft had announced that he would call Congress in special session for this purpose, immediately after his inauguration. Shortly after the last session of the Sixtieth Congress convened, in the winter of 1908, it was announced that the Ways and Means Committee of the House of Representatives would take testimony on the tariff. Most of the members of this committee had been re-elected; the Republican membership of the committee would be almost unchanged in the Sixty-first Congress and it was desired that the members of the committee, who would be charged with the responsibility of framing the new tariff law, should have as much information as possible in advance of the convening of Congress, so that there would be little delay in reporting the tariff bill to the House after Congress convened in March, 1909. When this announcement was made, nearly every industry in the United States sent a representative to the national capital to make sure that there would be no downward revision on its particular product. Every one seemed to be for revision of the tariff downward, but every one wanted the downward revision to come on the other fellow's product.

And so the Committee on Ways and Means held hearings from November 10 until shortly after the Christmas holidays. Representatives of manufacturers and other interests touched by the tariff presented arguments and figures, most of which were

directed to securing an increase in the duties. The witnesses were cross-examined, largely by the Democratic members of the committee. Then the Republican members of the committee retired to secret session to frame the tariff bill. They had only the evidence presented by the witnesses as a basis for the new bill. And this was nearly all *ex parte* testimony, given with a frank desire to maintain high duties for the industries owned by the men who gave it. The House bill was written in secret session of the Republican members of the committee and "debated" in the House. After the debate had dragged on for several days, the Committee on Rules brought in a "special order" limiting the opportunity for amendment of the bill to five articles, and limiting the amendments on these schedules that could be voted upon. This "special rule" was adopted by a party vote, the effect of which was to put a sort of capsule about the other sections of the bill, so that it had to be swallowed whole or rejected by the House.

The House bill passed April 9 and went over to the Senate. Two days later, Senator Aldrich, from the Committee on Finance, presented his bill. He did not pretend that it was a revision of the House bill. In fact he declared later on the floor of the Senate that he had not even read the testimony taken by the House Committee on Ways and Means. He said that his bill had been written by the Committee on Finance, aided by experts from the New York Customs House. His committee had been holding secret hearings for several weeks, to which only the Republican members were admitted and of which no record is obtainable anywhere. So we are justified in regarding the Aldrich bill as a separate bill, made without reference to the House bill or the testimony that had been taken by the House Committee on Ways and Means, and based upon testimony taken in secret by the Senate Committee on Finance.

The rules of the Senate do not allow cloture, and so an opportunity was given for a protracted debate in the upper house and for an attempt to amend any schedule of the bill that did not meet with the approval of any Senator. But in order to amend any section of the bill it was necessary to present facts

and statistics upon which to base an argument for amendment. Where were senators to get those facts? No record of the hearings before the Senate committee was available and, if it had been, it probably would not have been of any more value than the hearings before the House Committee on Ways and Means. Each senator was compelled to gather for himself, at the cost of stupendous labor and expenditure of time, any facts that he needed about the various industries touched by the tariff. The amendments that were adopted in the Senate were very few in number. The bill, as it went to the conference between the two houses, was largely the Aldrich bill. It came out of the conference the Aldrich bill. The conferrees appointed by Speaker Cannon refused to stand for the bill they had passed in the House and voted for the Senate bill. The insurgents charged Speaker Cannon with picking out the conferrees to do this very thing—to betray the House.

Such, in outline, is the method by which the present tariff law was passed. Just how this method operates to promote fraud and places upon members of Congress the necessity for excessive individual labor can be illustrated by an examination of one section of the bill—the cotton-cloth schedules.

The tariff is a very long and complicated law. It occupies about 200 closely printed pages. About twenty pages are given over to the duties on cotton cloth. Let us see how these pages were written.

For many years American tariff laws have taxed cotton goods after the following plan: Cotton cloth is divided roughly into classes, according to the number of threads per square inch. The greater the number of threads per square inch, the finer the quality of the goods and the higher the duty. Each class is then divided into sub-classes according to the number of yards of goods per pound. The greater the number of yards per pound, the finer the yarn and the higher the quality and the higher the duty. Each general class and each sub-class is divided again into three classes—unbleached, bleached, and colored goods. Unbleached goods bear the lowest duty in any class, bleached goods a higher duty, and colored goods a higher duty still. This

is the general plan of the Dingley law. At the end of each paragraph which deals with one class (according to the number of threads per square inch) the Dingley law contained an *ad valorem* proviso, declaring that cloth in that class should pay a duty of a certain percentage of its value. These *ad valorem* provisos taxed cotton goods valued at more than twelve or sixteen cents a square yard, and generally limited the application of the paragraph. They ranged from 25 to 50 per cent. In addition to these duties, the Dingley law contained a section providing that cotton cloth "in which other than the ordinary warp and filling threads have been introduced in the process of weaving" (no matter what the count of threads or weight per yard) should pay an extra or "cumulative duty" of one cent per square yard if valued at not more than seven cents per square yard and two cents per yard if valued at more than seven cents. In addition to these paragraphs, the Dingley law contained a section known as the "curtain section," in which it was provided that goods suitable for use as upholstery should pay a duty of 50 per cent. *ad valorem*. This was necessary because this class of goods, while comparatively valuable, usually contains very few threads per square inch; a single thread being doubled back and forth to make the heavy cloth.

The Dingley law followed, in the main, the outlines of the Wilson law. The late Senator Dolliver had in his possession a letter written by Governor Dingley to one of his friends in which he made the statement that the cotton goods manufacturers ought to be satisfied with the Dingley law, because they had written the cotton-cloth schedules of the Wilson law and he had allowed them to write these paragraphs of the Dingley law. It is on record that the cotton manufacturers frequently told New York importers that they knew what the Dingley law meant because they had written it themselves. Whatever the circumstances of their origin, the cotton-cloth schedules of the Dingley law were very satisfactory to the cotton manufacturers. Under the operation of the law, the cotton mills of New England experienced an era of unprecedented prosperity.

What was done to these schedules when the present tariff

law was written? Before I answer this question, it is necessary to review the situation at the New York Customs House with reference to the interpretation of the Dingley law, and to examine certain controversies that were then pending in the courts.

The Manville Company of Woonsocket and Manville, Rhode Island, had been engaged for a number of years in the manufacture of cheap cotton goods, known as curtain madras. This company manufactures nearly all the curtain madras used in this country. It is the cloth commonly seen at bungalow windows—woven on coarse, unbleached goods, with a large figure in it, something after the style of wall paper. The figure is woven into the goods by a little attachment on the loom, known as the Jacquard attachment. It puts in the extra threads as the loom moves back and forth and clips them off to form the figure. For years this class of goods came into the United States through the New York Customs House as countable, colored cotton goods. The background of the figure is of unbleached thread, but the colored figure usually covers such a large percentage of the area of the piece that the goods were classed as colored goods. The number of threads per square inch was determined by counting the background only. Manufacturers of cotton goods tried to secure a decision requiring the threads in the figure to be counted also, but this was not allowed. Years before, the Supreme Court of the United States had declared that extra threads could not be counted as constituting a part of the body of the fabric. And so these goods entered under the tariff law as colored goods and paid a duty of 30 per cent. *ad valorem;* this being the Dingley duty on colored goods of this class (according to the number of threads per square inch).

Shortly after the passage of the Dingley law, importations of curtain madras and other madras goods containing the Jacquard figure increased considerably. Madras is used for many things, from shirt-waists and men's shirts to dresses for the poorer classes of people. The novelty of raised figures had caught the American eye and this class of cotton goods became increasingly popular in the United States. And so the manufacturers called atten-

tion to the extra-thread provision of the Dingley law and asked that the extra cumulative duty of one or two cents per square yard (according as the goods were valued at seven cents or more per square yard) be assessed against this class of goods. It is a matter of record that the original intention of the framers of the Dingley law was to put this cumulative duty only on goods known as "lappets"; goods in which the extra threads are introduced in one piece, woven back and forth to simulate embroidery. But the extra-thread provision declared that all extra threads should be taxed and the manufacturers secured a decision putting the cumulative duty on Jacquard-woven goods. As soon as this decision was rendered, the importers asked that the goods be assessed as uncolored goods. They argued that if the extra threads in the figure were taxed under the extra-thread provision, they could not be used to determine the character of the cloth because that would be taxing these figures twice and they pointed to decisions of the Supreme Court in which it was held that the extra threads in lappets could not be counted because they were taxed under the cumulative duty. The Board of Appraisers held this view, when the case was first brought to their attention, and the goods were admitted as uncolored. Under the Dingley law, this meant a difference of 5 per cent. in the duty; uncolored goods coming in at 25 per cent. and colored goods at 30 per cent.

By the summer of 1907 the increasing popularity of Jacquard-woven goods had stimulated their importation and the manufacturers decided that something must be done to raise the duty. A suit was brought against Rusch & Co., importers of New York, to recover duty on these goods as colored goods. Calling them colored would increase the duty 5 per cent. Mr. Marion de Vries of the Board of Appraisers decided with Rusch & Co., holding that the goods could not be classed as colored goods, if the figures were taxed under the extra-thread clause of the Dingley tariff. This case was appealed to the Circuit Court for the Southern District of New York.

In October, 1907, Mr. de Vries changed his mind about this matter and decided that some of these goods imported by Titus

Blatter & Co. and Quaintance & Co. must be assessed as colored goods. These two importers entered an appeal from the decision and it went to the Circuit Court for the Southern District of New York, along with the other case. The government appeared on the side of the manufacturers in the Titus Blatter & Co. case as defendant against the suit of the importers. In the other case, it was with the importer. On March 2, 1908, Judge Hough of the Circuit Court for the Southern District of New York decided that all these goods must be entered as uncolored goods, holding with the importers that the figure could not be used to determine the character of the cloth, if it were taxed under the extra-thread clause. The court directed that a duty of 25 per cent. (the duty for uncolored goods of this class) be assessed, plus the cumulative duty for the extra threads.

Speaking of the two decisions of the Board of Appraisers of the New York Customs House, in which the question had been decided both ways, the court said: "The Board decisions under review are irreconcilable." To the suggestion of the manufacturers that a "reasonable interpretation should be given the word colored," the court said: "This can only mean that some appraiser shall look at the cloth and judge whether it is or is not sufficiently covered with colored designs to be called 'colored cotton cloth.' Such a method of decision does not recommend itself."

The question was taken to the Circuit Court of Appeals of the Second District and argued before Judges Lacombe, Coxie, and Ward. The three cases were test cases for a large number of disputes on colored cotton cloth that had grown up in the New York Customs House since the manufacturers first secured the assessment of the cumulative duty on Jacquard-woven goods. On their decision rested a difference of 5 per cent. in duty; a sufficient amount to shut out a large quantity of cloth from abroad.

This case was in the hands of the Circuit Court of Appeals when the Committee on Ways and Means met at Washington to take testimony on the cotton-cloth schedules. On December 1, 1908, Henry F. Lippitt of Providence, R.I., president of

the Manville Co., which manufactures curtain madras, and James R. MacColl, manager of the Lorraine Manufacturing Co., near Providence, appeared before the committee to give testimony on the cotton-cloth schedules of the Dingley law. These two manufacturers told the committee that they represented the Arkwright Club of Boston, a club which they said contained in its membership men controlling three-fourths of the cotton spindles in New England. In that club are represented the powerful group of mills owned by the New England Yarn Co., the American Thread Co., and the William Whitman Mill, which three concerns practically control the manufacture of cotton yarns in the United States. These three concerns are closely allied with another group of mills that control a large part of the cotton-cloth industry in the United States, a group controlled by six Rhode Island families and Clarence Whitman, brother of William Whitman. Besides being interested in cotton yarn, William Whitman is the author of the wool schedules of the tariff law, which President Taft characterized as "indefensible." And so, as representatives of the Arkwright Club of Boston, Messrs. Lippitt and MacColl could lay valid claim to being representatives of the cotton-cloth industry in the United States. They appeared before the Committee on Ways and Means to enlighten the committee as to the cotton-cloth schedules. What did they do? Did they explain the suits then in the courts and say that upon the outcome of these suits depended the question of whether they wanted the law changed or not? It is safe to say that not a single member of the Ways and Means Committee knew anything about the colored-cloth cases, as they were called. It would have been impossible for every member of the committee to familiarize himself with every detail of all the industries affected by the tariff law and all the decisions affecting the operation of that tariff. For any one member of Congress to have familiarized himself with one schedule of the tariff law was a stupendous task, because it meant a study of the industry and of the decisions affecting the tariff law on that industry. And so they had necessarily to rely upon the recommendations of the interests affected and of the customs house experts.

When Messrs. Lippitt and MacColl appeared before the Committee on Ways and Means, they said nothing at all about the decisions of the courts. They declared that they did not want the Dingley law changed at all. On December 1, Mr. Lippitt said:

> I am not appearing here to ask for an increase in the duties on the cloth clauses of the cotton schedule. I think that while there are importations going on under them, it is reasonably regulative of the cotton trade. The importations are not so large that we feel justified in asking that the duties be increased, but we would not like to see them decreased. . . . . We ask therefore that the present schedule shall not be materially changed.

Later in his testimony, Mr. Lippitt said: "Some minor features are still in controversy and may need elucidation."

The "minor features" that needed "elucidation" were the colored-cloth cases then in the hands of the Circuit Court of Appeals. Far from being minor, they affected every clause in the cotton-cloth schedule, because upon the decision of the court rested the question of whether Jacquard-woven goods should be classed as colored or uncolored and upon the settlement of this question rested a difference of 5 per cent. in the duty all along the line. But no definite explanation was given to the Committee on Ways and Means and the matter was in this shape when the public hearings of the committee were closed and the Republican members went into secret session to frame the tariff bill.

On January 12, 1909, a month after Messrs. Lippitt and MacColl appeared before the committee and after the hearings were closed, the Circuit Court of Appeals of the Second District handed down its decision, upholding Judge Hough's decision that the goods in question could not be classed as colored goods if the extra-thread tax were levied on the Jacquard-woven figure. The court was unanimous in its decision. The case was immediately carried to the Supreme Court of the United States on a petition for a writ of certiorari, but the manufacturers had little hope of winning there because the Supreme Court had practically decided this same question before. And so it became necessary for the "minor points" to be "elucidated" in the new law.

On January 15, 1909, three days after Judge Lacombe's decision was handed down and a week before the decree in the cases was entered by the court, Messrs. Lippitt and MacColl wrote their now-famous letter from Providence to the Committee on Ways and Means. They signed themselves as members of the Arkwright Club and set forth certain changes that they desired in the form of the cloth clauses of the cotton schedule. The letter did not appear in the printed hearings of the Ways and Means Committee but was found afterward by Senator Dolliver in a volume entitled "Appendix" to the hearings. Certain changes in the law were made necessary, said the letter writers, by court decisions which had operated to obscure the meaning of the Dingley law. These little obscurities would be cleared up by the enactment of provisions which they recommended. The amendments suggested were as follows:

> The terms bleached, dyed, colored, stained, painted, printed or mercerized, wherever used in the paragraphs of this schedule shall be held to include all cotton cloth having bleached, dyed, colored, stained, painted, printed or mercerized thread, threads, yarn or yarns in any part of the fabric and all fabrics which have, wholly or in part, prior, during, or subsequent to fabrication, been bleached, dyed, colored, stained, painted, printed or mercerized.

The enactment of this provision would put all cloth with even a single colored thread in it into the colored-cloth classes of the tariff law, no matter what the Supreme Court should decide was the meaning of the Dingley law.

The next amendment suggested was:

> The term thread or threads, as used in the paragraphs of this schedule, with reference to cotton cloth, shall be held to include all filaments of cotton, whether known as threads or yarn or by any other name, whether in the warp or filling or otherwise. In determining the count of threads to the square inch in cotton cloth, all the threads, whether ordinary or other than ordinary and whether clipped or unclipped, shall be counted.

The effect of this "elucidation" would be to require the counting of the threads in all raised figures on cloth in determining the class according to the count of threads, and would raise the duty on nearly every class of cloth by putting the cloth into another class with a higher count of threads per square

inch, where the duties are higher. No attempt had been made to count the threads in raised figures for years because the Supreme Court had declared that this could not be done under the Dingley law, which had provided a tax expressly for these extra threads.

The next "elucidation" suggested by Messrs. Lippitt and MacColl was the addition of a duty on mercerized goods. It was to read:

> Cotton cloth, mercerized or subjected to any similar process, shall pay one cent per square yard additional cumulative duty to that herein imposed upon such cotton cloth were the same not so mercerized or subjected to any similar process.

They argued that the process of mercerization had come into vogue since the passage of the Dingley law and needed an extra protection. Remember that, under the first amendment suggested, "mercerized" meant containing even a single mercerized thread.

The extra cumulative duty was to be left in the law. If all these provisions were enacted, it would mean that madras goods would be entered in a higher class than under the Dingley law because of the provision requiring the threads in the figures to be counted; they would be entered as colored goods if they contained a single colored thread; they would also bear the cumulative duty of one or two cents per square yard because of the figure and another cumulative duty of one cent per yard if they contained any mercerized threads.

Messrs. Lippitt and MacColl suggested that the "curtain clause" be amended by adding these words: "and Jacquard-figured goods in the piece or otherwise, suitable for use as upholstery goods or as draperies or covers." The curtain section carried a tax of 50 per cent. *ad valorem*. If the other "elucidations" failed of enactment, this would give Jacquard-figured goods a duty of at least 50 per cent., because dress goods are called "draperies" by tradesmen.

The letter from Providence says:

> The slight additional changes in the wording of the first paragraph as here presented are simply designed to meet legal questions which have been

brought up in connection with it. Especial importance is attached to the second paragraph defining color.

The manufacturers tried all along to create the impression that the changes were of minor importance and designed simply to straighten out the law. The letter vouchsafes the information that Mr. Marion de Vries of the New York Customs House approved the changes. It says:

> The alterations in paragraphs 310 and 313 are substantially the same as contained in the recommendations of Mr. Marion de Vries of the Board of General Appraisers, so that the language and form have his approval. They are designed to make clear some disputed points in the present act and have been drawn after consultations with people experienced in the details of the administration of the present act.

What the recommendations of Mr. Marion de Vries to the House Committee on Ways and Means were, there is no way of finding out. No record of them is available. Subsequent developments show, however, that Messrs. Lippitt and MacColl were authorized to state that their amendments had Mr. de Vries' approval. The letter adds naïvely: "We hope they are so worded as to effectually accomplish the object desired," and closes with a pathetic appeal to the committee not to reduce the Dingley duties.

This letter was received by the Republican members of the Committee on Ways and Means in secret session. There was not time for anyone to investigate the real meaning of the amendments suggested by the manufacturers and their only cry seemed to be for the retention of the Dingley duties. The vast amount of labor in framing the tariff bill made it impossible for any of the members of the committee to look into the effect of the amendments. They seemed to have been approved by the customs-house experts and so they were incorporated bodily into the bill. When the bill went to the House of Representatives, they were all in place.

Some of the members of the House who were not on the Ways and Means Committee, notably Irvine Lenroot of Wisconsin, had been studying the cotton-cloth clauses of the Dingley law and had noticed the "elucidations" when the Payne bill was reported to the House. They told the members of the House

what the effect of these changes would be. When Sereno E. Payne, chairman of the committee, heard of this, he called a meeting of the Republican members of the committee and moved that the amendments be stricken from the bill. It is stated by several members of the committee that Mr. Payne used strong language and declared that he had been fooled. He said that he did not propose to be tricked or to stand for underhanded methods of writing the tariff laws. The committee took this view and the next day he got up in the House and moved to strike from the bill the Lippitt provisions for counting all the threads and the definition of color that would permit a single thread to determine the character of cotton cloth. The mercerization tax and the joker in the curtain clause were not discovered.

In this form, the bill went over to the Senate. When Senator Aldrich brought out his bill, two days after the House bill had passed, it contained every one of the "little elucidations" suggested by Messrs. Lippitt and MacColl. Just how these amendments got into the Aldrich bill is somewhat of a mystery. Senator Aldrich declared at one time that they were the product of the officials of the New York Customs House and at another that they were the product of the Committee on Finance and were never seen by the customs-house experts until the bill was perfected by the committee. He always stoutly declared that no cotton manufacturer had appeared before his committee when it was holding secret hearings. Perhaps Messrs. Lippitt and MacColl, coming from Providence, the home of Senator Aldrich, did not need to appear before the committee. As to the origin of the amendments, let Senator Aldrich speak. In May, he said on the floor of the Senate:

> If the Senator will permit me just there upon that point, no manufacturer has been before the Committee on Finance in regard to this schedule. Every change that was made in it was made upon the recommendation of the government experts and nobody else; and it is now defensible and will be defended by the members of that committee whenever that schedule is reached.

A few weeks later, on June 1, Senator Aldrich rose to defend the customs-house experts from the charge that they had raised

the duties of the cloth clauses of the cotton schedule. He said:

> So far as this schedule is concerned, and the amendments which were reported from the Committee on Finance to the cotton schedule, the changes from *ad valorems* to specifics, Mr. de Vries never saw them until after they were prepared under the direction of the committee. No member of that committee ever had any conversation with him in relation to it. I will go a step further and say that no manufacturer in the United States ever saw them or was ever consulted with reference to them. They are the creation of the Committee itself, and no man was consulted either on the Board of General Appraisers or anywhere else, with reference to these provisions, until the committee had decided what they were to be.

And so, with these conflicting statements from Senator Aldrich as to the origin of the amendments, the outsider is left to decide for himself. The only thing to guide him is the statement on both occasions by Senator Aldrich that the manufacturers had nothing to do with them and the striking similarity between the amendments offered by Senator Aldrich and those proposed by Messrs. Lippitt and MacColl to the House Committee on Ways and Means. While they differ in their wording, the amendments have exactly the same effect.

In addition to putting the "little elucidations" into his bill, Senator Aldrich had eliminated the *ad valorem* provisos at the end of each paragraph of the cotton-cloth clauses of the Dingley bill, and had substituted therefor specific duties, with arbitrary step-ladder dividing lines as to values. He explained that this had been done simply to make the bill uniform and that his new specific duties were not greater than the *ad valorem* duties of the Dingley law. Senators La Follette and Dolliver had some doubts as to the effect of this transformation and they changed the new specific duties back to *ad valorem* and compared them with the Dingley duties. They found that the Aldrich specific duties were an increase in nearly every case over the Dingley *ad valorem* duties. The duties were found to be higher on 62 classes of goods and the increases ranged from 25 to 459.96 per cent. They told the Senate what they had discovered and Senator Aldrich charged them with being poor mathematicians. The old *ad valorem* duties had been simply transformed into

specific duties, said Senator Aldrich, and there were no increases. Senators La Follette and Dolliver then asked the Bureau of Statistics to compute the effect of the changes. The Bureau confirmed their original figures. The new Aldrich duties were found to touch the Dingley duties at only two classes of cloth. On mercerized goods or goods with even a single mercerized thread, the new duties were found to be increases over the Dingley duties in 118 classes of cloth. But Senator Aldrich stoutly declared that the duties had not been raised. On May 4, he said:

> I expect before we are through with the consideration of this schedule to satisfy the Senator from Iowa himself [Mr. Dolliver] that these changes were all made in the interests of the American producer and that there is no increase in the rates on cotton cloth.

Senator Dolliver afterward said that he was convinced of the truth of the first part of this statement but that he had never been convinced as to the truth of the second part.

On May 24, the Supreme Court spoke the last word in the colored-cloth cases by refusing to grant the application for a writ of certiorari, and thus upheld the decision of the lower courts that under the Dingley law curtain madras could not be called colored goods if the extra threads were taxed. If the law was to be changed, it must be changed in the Senate; the "elucidations" must be kept in the bill.

Senator Aldrich took the floor and explained that his new duties were higher than the duties which were then in force under the Dingley law, but that they were not higher than the Dingley law as intended. The courts had emasculated the Dingley law, he said, and he was simply putting back the original duties. The government had lost millions of dollars through the operation of these court decisions, he declared. He was asked to be specific, and quoted a line of decisions which had not been overruled by the courts but by Mr. Marion de Vries himself. He quoted the now-famous "etamine" decision of Colonel Hartshorne, an appraiser in the New York Customs House, rendered in 1904. Etamines are linen cloths very loosely woven and are provided for in the linen schedules of the tariff

bill. They bear a duty of 60 per cent. *ad valorem*. Colonel Hartshorne decided that "an etamine is a cloth with a hole in it" and that therefore curtain madras was assessable as etamine. Of course, this ridiculous decision was overruled by the Board of General Appraisers as soon as it was made.[1] Then Senator Aldrich cited the colored-cloth cases and declared that millions of dollars were involved in this dispute. Senator Dolliver tried to find out just how much was involved in those cases. The customs-house experts could not tell him.

The Senate Committee on Finance occupied fourteen rooms in the Senate Office Building and had at its disposal all the experts of the customs service. But an executive order was issued by President Taft closing the records of the United States Customs House to everyone except Senator Aldrich's committee. And so no information was available there. Senator Aldrich, who had access to the records of the customs house and could have told exactly how much money was involved in this dispute, would not give any definite information. He sent anonymous newspaper clippings to the desk of the clerk of the Senate and had read an affidavit from a subordinate in the New York Customs House stating that, to the best of his recollection, anywhere from 6 to 30 per cent. of all the cotton cloth imported at New York was madras and was affected by the colored-cloth decision. Finally Senator Borah got a statement from the assistant secretary of the Treasury to the effect that $400,000 was involved in these cases. Senator Dolliver got a statement from the Bureau of Statistics showing that in the year of greatest importation only $356,000 worth of these goods had been imported into the United States and that the amount in dispute was 5 per cent. of this. Finally Senator Hughes, who had heard that the case had gone to the Supreme Court of the United States, looked up the briefs filed on both sides of the case. He found that the attorneys for the government, acting in this case for the manufacturers, had claimed that $260,000 was involved and that the attorneys for the other side, which won, declared: "We frankly

[1] Col. Hartshorne was afterward separated from the government service because, contrary to law, he had an interest in some linen mills.

believe that not more than $20,000 is involved in the entire litigation, or not more than about $5,000 a year." It seems almost inconceivable that the machinery of the United States government should have been set in motion to prevent a United States senator from getting information that would aid him in the discharge of his duties, yet such is the case. Senator La Follette tried to get information from the customs-house experts but met with a refusal because of the executive order forbidding them to disclose any figures except to Senator Aldrich. He finally succeeded in getting permission to talk to Mr. Parkhill of the customs house, but Mr. Parkhill was especially instructed not to take any figures with him, but to give the senator the benefit of his recollection.

During the debate on the cotton schedule, Senator La Follette asked Senator Aldrich for some information. The Rhode Island senator replied: "It would take a commission nine months and cost $250,000 to get that information."

Major John M. Carson, who was at that time chief of the bureau of manufacturers in the Department of Commerce and Labor, happened to be listening in the Senate gallery at the time. He sent a note down to Senator La Follette stating that he could get the information in nine hours and that it would not cost him a cent.

Then there was talk of the great cost of labor in America as compared with the cost of labor in cotton mills abroad. But no one offered any definite comparisons as to the cost of labor. Nowhere in the whole debate on the cloth clauses of the cotton schedule was there any definite information given to the Senate except that collected by those senators who attacked the schedule. All the arguments offered by the defenders of the schedule were generalities which disappeared under the fierce fire of Senators La Follette and Dolliver and their supporters in the debate. Senator La Follette offered the only substantial statistical information as to wages when he quoted the figures given in *Census Bulletin No. 93,* which show that the average wage of all cotton-mill operatives in the United States is $6.47 a week and that the average wage in New England is $4.68 per week. It was shown

that factory operatives work longer hours in America than they do in England and attend to more looms. Senator La Follette also showed that the mills of New England employ women and children at pitifully small wages, and then the talk of wages ceased.

Then Senators Dolliver and La Follette attacked the mercerization tax of one cent per yard. What was this process of mercerization that it should be thus taxed, they asked? No one knew. Finally it was brought out that cloth is mercerized by dipping it in an inexpensive caustic bath. Senators Dolliver and La Follette found that this costs less in America than it does anywhere else in the world. If there are only a few mercerized yarns in a piece of goods, the cost is infinitesimal. And then, one night, telegrams were sent out to manufacturers all over the United States by Mr. Marion de Vries from the committee room of the Committee on Finance, asking for the cost of mercerization. It was virtually an appeal to the manufacturers by Senator Aldrich to explain to him his own bill. The replies to these telegrams were never read in the Senate by Senator Aldrich. Some of the manufacturers sent copies of their replies to Senators Dolliver and La Follette and these senators read them to the Senate. They showed that mercerization costs from seven-hundredths of a cent to less than a quarter of a cent per yard. And yet the duty was one cent per yard.

Then the curtain schedule was attacked and Senator Aldrich agreed to limit its application to upholstery goods. The fight on the provision that would enable one thread to determine the character of the goods as to color or mercerization led to the elimination of this clause in the Senate. But that was all the opponents of the cotton schedule could accomplish. The provision requiring every thread to be counted was retained in the bill, as was also the tax on mercerization. And in this shape, the bill went into conference.

When it emerged from the closed doors of the Committee on Conference, it was found that the provision permitting one thread to determine the character of cotton goods had been put back into the bill. This provision had been rejected by both the

Senate and the House and could not have been passed by either. It was therefore not properly a subject of conference between the two Houses, but the paragraph in which it was contained was in conference and so it was put back into the bill. In other words, the conferrees of both Houses had expressly violated the trust reposed in them by their respective Houses. There was no way to eliminate this provision in either House without rejecting the whole bill and so it is a part of the present law. We are reminded of the statement in the letter of Messrs. Lippitt and MacColl that "especial importance is attached to the second paragraph defining color."

The bill, as it passed Congress, contained another very interesting provision. A special customs court was established. It was argued that ordinary judges do not know enough about the fine points of the tariff to pass upon its interpretation. Mr. Marion de Vries was appointed a judge of this court. Senator Aldrich had frequently referred to him as "Judge de Vries" in the course of the debates in the Senate. He will no longer suffer the humiliation of having it said that his decisions are irreconcilable.

After the tariff bill had passed the Senate, the intricacies of the cotton schedule were pretty well understood, because of the exposure of the Aldrich-Lippitt amendments by Senators Dolliver and La Follette. But these senators obtained their information against every obstacle that the forces of the government could throw into their way. They obtained it by hard study at midnight and by digging into the workings of the tariff law and the decisions of the courts. They sent to New York and got samples of cotton goods and worked the thing out for themselves. It was a stupendous labor and had to be carried on in addition to their other duties and in addition to their study on other sections of the tariff bill. The mere perusal of this paper will indicate the amazing intricacies of the cotton schedule alone, and when it is remembered that it is but a small portion of the tariff law, it can be seen that the task of examining the entire bill and gathering information for the examination of every schedule is a thing that one man cannot hope to accomplish in less than a life-time of effort.

The present system of tariff-making would be wrong, because it requires such excessive labor on the part of members of Congress, even if it resulted in a perfect law. But in the very nature of the system, it cannot result in a perfect law. What was done to the cloth clauses of the cotton schedule was done to nearly every other schedule in the bill. And it is a physical impossibility for any one member or any set of members of Congress to gather enough information intelligently to pass upon the vast number of schedules in a tariff law. The natural result is a law based upon *ex parte* information given by those who have an interest in the workings of the tariff law, an interest in a high tariff.

When the law was passed the people were represented only in theory. The manufacturers had all the representation. I do not mean by this statement that Congress necessarily represented the manufacturers as against the interests of the people; but the direct representatives of the manufacturers who appeared before the committees of Congress had information and the direct representatives of the people—the members of Congress—had none. If a tariff law is to be based upon the difference in the cost of production at home and abroad the only way to lay a foundation for that tariff is to ascertain the difference in this cost. This was not done when the present law was passed. The only information on this subject was given by the manufacturers—interested parties in the question at issue. And the only way for Congress to gather the information is to appoint a commission to gather it. The present "tariff board" is now at work in this direction, but its powers are very limited and it cannot take testimony under oath. The tariff board was not created as a tariff commission, but as a board to enable the President to administer the maximum and minimum features of the new tariff law. President Taft has broadened its scope by asking it for information on the cost of production at home and abroad. But what is needed is a commission to give this information to Congress and to the whole American people.

There are those who urge that the New England mills have not been making too much money and that they need the

extra protection granted by the Aldrich bill. A recent report of the American Association of Cotton Manufacturers shows that every cotton mill in New England paid for itself in twelve years, and most of them in eight, and accumulated a comfortable surplus in addition. But that is beside the question. If these mills needed the extra protection, it should have been openly asked for; not sought through the medium of small clauses in the tariff law which were not explained to Congress and the importance of which it was attempted to hide; and it should have been openly granted, not obtained through the changing of duties from *ad valorem* to specific and the enactment of little clauses behind the closed doors of the conference committee when these clauses had been rejected upon the floors of both houses of Congress.

The tariff law should be made in broad daylight. It is a law that affects every man, woman, and child in the United States and it should be made openly and in the light of the fullest information that can be obtained on the industries affected by it. Until our tariff laws are made in this way, we shall have nothing but inequalities and chances for trickery behind closed doors, which operate to grant special privileges to men clever enough to deceive Congress. And above all, we shall have the continual agitation that is said to be so hurtful to business; because the present system leads inevitably to injustice and no issue is ever settled until it is settled right. What is needed in American tariff-making, no matter upon what theory our tariff laws are based, is more light.

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